
COMPENSATING VICTIMS: A LEGAL FRAMEWORK FOR JUSTICE

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ABSTRACT

This paper examines the evolution and current status of victim compensation laws in India, focusing on the legal framework, development of victim compensation programs, and areas for improvement. The research problem is to ensure that victims receive the help and support they need to recover and rebuild their lives. The methodology includes a review of relevant literature, such as the United Nations Declaration of Basic Principles of Justice and landmark legislation like the Victims of Crime Act. The findings highlight the importance of victim compensation in advancing justice, equity, and accountability within the criminal justice system. Despite significant progress, challenges remain, including a lack of awareness among victims, complex compensation processes, inconsistent awards, and insufficient government funding. The paper also discusses the need for a comprehensive victim compensation system that includes rehabilitation and support services. The implications of this study suggest the need for reforms in India's legal system to align with international standards and better support crime victims. The study also discusses various legal cases in India that address the issue of victim compensation in different contexts, emphasizing the need for comprehensive legal frameworks to assist victims adequately.

INTRODUCTION

The purpose of the legal framework governing victim compensation is to guarantee that those who become victims of crime get the help and support they require in order to get past their ordeal and start over in life. Victim compensation laws are designed to advance justice, equity, and accountability in the criminal justice system by providing precise rules, processes, and safeguards. Compensation for victims within a legal framework is more than just financial restitution; it is an essential component of justice that aims to repair the harm perpetrated on people or groups. In essence, it is a recognition of their pain and a physical validation of their rights. This paradigm seeks to restore balance and dignity to people who have been harmed, providing a road to healing and rehabilitation. The legal system seeks to rectify wrongs and reduce the negative impacts experienced by victims by giving compensation, whether in the form of money, services, or other types of reparation.

Furthermore, a strong system of law for paying victims acts as a deterrent to future misconduct, instilling a feeling of accountability in society. It clearly states that acts have consequences and that abusers will be held accountable for the harm they cause. It also contributes to the restoration of faith in the judicial system by displaying its commitment to assisting persons who have been wrongfully treated. Finally, paying victims within a legal framework not only meets urgent needs, but also helps to the larger objective of creating a more just and equitable society.

1. DEVELOPMENT OF VICTIM COMPENSATION PROGRAM

In order to provide victim justice, compensation to victims is thought to be a key element. In the United Nations Declaration of Basic Principles of Justice, 1985, which was approved by the General Assembly during its 96th Plenary Meeting on November 29, 1985, the right to compensation has been accorded paramount importance. In the event that the victim is unable to get compensation from the perpetrator or from other sources, this statement stipulates that the State will pay the victim's expenses.

226th Law Report Report In order to include acid assaults as distinct offenses under the Indian Penal Code and to create a statute providing compensation to victims of crime, the Commission of India (2009) filed its findings to the Supreme Court of India. The Commission suggested that a legislation be passed to create Criminal Injuries Compensation Boards at the federal,

state, and local levels in order to provide victims with compensating justice. There are references to compensation made to victims of criminal offenses in a number of places, includes books like Manu Smriti, Book of Exodus, Homers Illiad and Code of Hamurabi It is one of first victim rights statute in history.

The evolution of victim compensation has been a pivotal aspect of modern criminal justice systems, reflecting a shifting paradigm towards recognizing and addressing the needs of crime victims. Initially, victims were often side-lined within the legal framework, with minimal consideration given to their financial burdens and emotional trauma resulting from crime. However, the emergence of victim advocacy movements in the mid-20th century propelled the recognition of victims' rights and catalysed the establishment of victim compensation programs.

In the 1960s and 1970s, the first victim compensation programs emerged in the United States, responding to the pressing need to provide financial assistance to victims of violent crimes. These programs aimed to alleviate the economic hardships faced by victims by covering medical expenses, lost wages, funeral costs, and other related expenses. The passage of landmark legislation such as the Victims of Crime Act (VOCA) in 1984 further solidified support for victim compensation by creating a federal fund to assist states in providing compensation to victims.

Although victim compensation laws have made great strides in acknowledging and addressing the rights of victims in India, there are still some areas that need to be taken into consideration. Victim compensation laws are a crucial component of the criminal justice system because they seek to ameliorate the victim by offering financial assistance and support to victims of crime. These include a narrow focus and low victim awareness, a drawn-out and complicated compensation process, inconsistent compensation awards, insufficient government funding, the need for rehabilitation and other support services in addition to monetary compensation, and the inclusion of vulnerable and marginalized victims in the system.

Laws that allow for reparation by courts handling criminal justice administration are regarded to be lacking in other States, including the USA, Canada, Australia, England, New Zealand, and Northern Ireland. In the absence of complete law, victim compensation schemes in India ought to be viewed as an institution that extends beyond the purview of Section 357 and The Code of Criminal Procedure (Amendment) Act, 2008 (Act 5 of 2009) introduced a victim

compensation mechanism and modified the Code of Criminal Procedure, 1973. Section 357A. A program that unifies criminal laws, civil remedies, rehabilitation assistance, judicial functions, and state responsibility should be included in these plans. India should rethink and overhaul its current legal system to bring it into compliance with international norms.¹

“According to Section 357 of Cr.P.C. clarifies that it empowers the Trial Courts to order that the fine imposed upon an accused at the time of order of sentence be paid as compensation to the victim.”²

“Section 357A mentions that Every State Government in co-ordination with the Central Government shall prepare a scheme for providing funds for the purpose of compensation to the victim or his dependents who have suffered loss or injury as a result of the crime and who, require rehabilitation.”³

With victim-centeredness, accessibility, and diversity as guiding principles, victim compensation continues to improve. As victim compensation systems continue to evolve globally, efforts to improve victim rights and dignity, increase access to compensation, and extend services to marginalized groups continue to be top goals. In the wake of crime, victim compensation remains a crucial component in helping victims toward healing, rehabilitation, and justice through various initiatives. In India, victim compensation is still a new concept, thus the courts should take a more proactive and sympathetic stance. Equal weight should be given to the factors of conviction and punishment as well as compensation. The courts ought to take on the role of protectors of the poor, offering victims from a variety of backgrounds significant help, especially with regard to rehabilitation and restoration. The antiquated practice of the courts restricting victim support to monetary fines imposed on the convicted party alone should be abandoned. In order to compensate the victims fairly and place a strong focus on their social rehabilitation and reintegration, it is crucial to have a liberal stance.

2. LEGAL PROVISIONS

Legal provision play a fundamental role in shaping the framework and operation of victim compensation programs, ensuring that they adhere to principles of justice, fairness, and equality

¹ https://nja.gov.in/Concluded_Programmes/2020-21/P-1230_PPTs/2.Victim%20Compensation.pdf

² <https://devgan.in>

³ <https://indiankanoon.org/doc/158101963/>

enshrined in national constitutions. At the core of these considerations is the principle of equal protection under the law, which mandates that victim compensation be administered impartially and without discrimination based on factors such as race, ethnicity, gender, religion, or socio-economic status. This principle ensures that all victims have equal access to compensation and support services, regardless of their background or circumstances.

Moreover, constitutional guarantees of due process rights ensure that victims are afforded fair and transparent procedures when seeking compensation for the harm they have suffered. This includes the right to timely and effective remedies, the right to be heard in compensation proceedings, and the right to appeal decisions that affect their compensation claims. By upholding due process rights, victim compensation programs enhance the legitimacy and integrity of the compensation process, promoting trust and confidence among victims and stakeholders.

In India, compensation has been mandated as a public law remedy in accordance with Article 21 of the Constitution. In an effort to provide victims with justice, the Supreme Court has occasionally mandated the provision of monetary compensation in addition to rehabilitative help where the State or The authorities fails to protect the victims' lives, dignity, and liberty.

“ARTICLE 21: “Protection of Life and Personal Liberty: No person shall be deprived of his life or personal liberty except according to procedure established by law. This basic freedom is open to all individuals, including citizens and visitors.”⁴

India's criminal laws have seen some changes in recent years that grant victims of crime rights at various levels of the criminal justice system. One such advancement that has occurred in India is the payment of compensation to a victim of crime.

Section 545 of the Code of Criminal Procedure of 1898 was examined in the 41st Report of the Law Commission of India, which was issued in 1969. The report made the recommendation that the recoverability of compensation should be enforced in a civil court, similar to the public remedy provided for torts. The adjective "substantial" was used to exclude situations in which recoverable nominal compensation would have been determined. In order to update Section 545 and reintroduce it as Section 357 as it now exists in the Code of Criminal Procedure, 1973, the Code of Criminal Procedure Bill, 1970 was presented. The method to demarcation was

⁴ <https://indiankanoon.org/doc/1199182/>

changed when the term "substantial" was removed. Furthermore, two additional subsections were included. Even in situations where there is no fine associated with the sentence, compensation is payable under subsection (3) of the provision. On the other hand, subsection (4) describes the courts' authority and jurisdiction with respect to this provision. It says that any court, including the High Court and the Appellate Court, may, in the course of using its revisionary powers, issue an order for compensation.

The Cr.P.C.'s Section 357 covers two situations. First, the court may order that the recovered fine be used entirely or in part as specified in subsection (1) if the court imposes a sentence that includes a fine or a sentence that includes a death sentence and the fine is a component of the sentence. A second situation, in which a punishment is issued without a fine, is likewise covered by the Act. Subsection (3) of Section 357 gives the court the authority to order the accused party to compensate the person who has lost money as a result of the committed conduct by dictating a certain sum during the verdict.

A greater understanding of Section 357 of the Cr.P.C. demonstrates the legislature's progressive thinking in including a range of qualifying criteria. Under Section 357(1a), "costs incurred in prosecution" are included, as is Section 357(1b) for "any person" who has suffered loss or injury as a result of the offense; Section 357(1c) for "persons" who have the right to sue the convicted party for damages under the Fatal Accidents Act, 1855; and Section 357(1d) for "bonafide purchaser" of property involved in the offense. Section 358 also mentions about the compensation to victim who are groundlessly arrested, and Section 359 mention about the order to pay a person in non – cognizable offence.

In order to ensure that victim compensation programs are developed and run within the parameters of constitutional principles and uphold the rights and dignity of crime victims, constitutional considerations offer a strong foundation for their establishment. Victim compensation schemes help to create a more just, equitable, and caring society that aids victims on their journey toward healing and recovery by respecting these fundamental principles.

The legal framework for compensating redress to victims of crime in India may be traced back to the Code of Criminal Procedure. The Probation of Offenders Act of 1985, the Motor Vehicles Act of 1988, the Consumer Protection Act of 1986, the Indian Railways Act, and the Protection of Women from Domestic Violence Act of 2005, the Sexual Harassment (Prevention, Protection, and Redress) Act of 2013, and the Fatal Accidents Act of 1855 all

include provisions for awarding compensation to victims of crime. Aside from these laws, the Constitutional scheme for compensatory victims can be found in Supreme Court decisions interpreting fundamental rights or directive principles of State Policy, or in Articles 32, 136, and 142, which allow the court to order the payment of compensation to victims of crime.⁵

- Compensation under the Probation of Offenders Act, 1958:

The Probation of Offender Act of 1958 also includes a provision for compensating remedy to crime victims under Section 5(1). The Section states that if a court orders the release of an offender under Section 3 or Section 4 of the Act, it may also order the accused to pay such compensation to the victim as the court deems appropriate for the loss or injury caused to the latter, as well as the cost of the proceedings.

- Compensation for Victims under the Motor Vehicle Act 1988

Section 5 of the Motor Vehicle Act of 1988 allows the victim of a vascular accident or their legal agent to seek compensation from the perpetrator in the event of the victim's death. However, power in this sense is limited to the court.

- Compensation under the Consumer Protection Act 1986

The Act provides a three-tier quasi-judicial redressal mechanism at the district, state, and national levels for the resolution of consumer disputes and grievances. The District Forum has jurisdiction to hear complaints where the value of the goods/services complained about and any compensation claimed does not exceed Rs.20 lakhs; the State Commission for Claims surpassing Rs.20 lakh but not exceeding Rs.1 crore are handled by the National Commission.

- Compensation under Indian Railways Act

According to rule 8 of the Railway Claims Tribunal (Procedure) Amendment Rule, 2002, an application for compensation payable under section 124 or 124A of the Railways Act, 1989 may be filed before the Bench with territorial jurisdiction over the

⁵ <https://www.legalserviceindia.com/legal/article-6103-a-critical-study-on-victim-compensation-under-various-laws-of-india.html>

site where the traveller acquires or sells their pass or ticket, or where

- Protection of Women from Domestic Violence Act, 2005

After 16 years of battle, the Protection of Women from Domestic abuse Act of 2005 was a huge accomplishment in terms of the women's rights revolution, particularly for victims of domestic abuse. Domestic violence is defined as physical, sexual, verbal, and emotional abuse. The particular benefit of this Act is that the victim can maintain access to the facilities or resources that the victim is entitled to use or enjoy as a result of the presence of a domestic partnership, including access to the shared householder. The police officer or magistrate who receives the complaint is required to tell the victim of her right to request a protection order or order of monetary relief, custody order, residency order, compensation order, or multiple similar orders. This Act protects women's rights as granted by the constitution.

- The Sexual Harassment (Prevention, Protection, and Redress) Act of 2013:

The act also provides for the deduction of compensation give to the aggrieved women from the respondents wages. The compensation payable will be decided based on the mental trauma, pain, suffering and emotional distress caused to the aggrieved employee, the loss of career opportunity as a result of the sexual harassment occurrence, and the victim medical expenses for physical/psychiatric trauma. The income and status of the alleged perpetrator and the feasibility of such payment in lump sum or instalments in the event that the respondents fail to pay the aforementioned sum. The ICC may submit order to recover the sum as an arrears of land revenue to the appropriate district officer.

- The Scheduled Castes and Tribes (Prevention of Atrocities) Act, 1989 prevents caste-based victimization and protects victims.

This Act is intended to end atrocities against people of the Scheduled Castes and Tribes. Compensation for victims is obligatory under this Act, in addition to many additional reliefs that vary depending on the circumstances and type of atrocity committed. The severity of the violation determines monetary compensation, which ranges between Rs. 25,000 and Rs. 2,00,000.

- The Maintenance and Welfare of Parents and Senior Citizens Act of 2007. This special law is aimed at protecting seniors and preventing all forms of elder abuse and victimization, which is becoming increasingly prevalent in many nations, including India. This Act imposes an obligation on children or adult legal heirs to support their parents or elderly citizens over the age of 60 who are unable to support themselves from their own work, allowing them to live a normal life. In circumstances when the children or legal heirs refuse to support the elderly citizen, it empowers the Tribunal to issue an order requiring the children or legal heirs to provide a monthly allowance.
- The Fatal Accidents Act of 1855

Section 1A of this act defines that Suit for remuneration to a person's family for damage caused by his death due to actionable wrong. Whenever a person's death is caused by a wrongful act, neglect, or default, and the act, neglect, or default is such as would (if death had not ensued) have entitled the party injured to maintain an action and recover damages in respect thereof, The party injured is entitled to maintain an action and recover damages in respect thereof, and the party who would have been liable if death had not occurred is also entitled to an action or suit for damages, notwithstanding the death of the person injured and whether the death occurred under such circumstances. 'Every such action or suit shall be for the benefit of the wife, husband, parent, and child, if any, of the person whose death has been thus caused, and shall be instituted by and in the name of the executor, administrator, or agent of the person deceased.' and in every such action, the Court may give such damages as it thinks proportionate to the loss resulting from such death to the parties respectively, for whom and for whose benefit such action shall be brought, and the amount so recovered, After removing all charges and expenditures, including those not collected from the defendant, the proceeds shall be shared among the aforementioned parties, or any of them, in the proportions determined by the Court's decision or decree.

- Compensation for Victims under the Motor Vehicle Act 1988

Section 5 of the Motor Vehicle Act of 1988 allows the victim of a vascular accident or their legal agent to seek compensation from the party responsible in the event of the victim's death. However, power in this sense is limited to the court.

Section 161 of the Act allows for compensation in the event of a hit-and-run vehicular accident. If a person dies in a hit-and-run car accident, the government pays at least two lakh rupees in compensation. If a person is critically injured in a hit-and-run accident, they are entitled to at least 50,000 rupees in compensation.

According to Section 164, if a person is extremely injured or dies as a result of an accident caused by a motor vehicle, the vehicle's owner or insurer must provide compensation. The compensation sum is 5 lakh rupees in the case of death and 2.5 lakh rupees in the case of serious injury. Compensation might be awarded to either the victim or the victim's lawful descendants.

3. LEGAL ISSUES REGARDING VICTIM COMPENSATION

A. Issues with the implementation of Section 357A

Regardless matter whether the case is convicted, the state will offer interim compensation in accordance with Section 357-A of the State's Victim Compensation Scheme. However, there were other obstacles that prevented the law from being executed as intended under Section 357A.

- The most significant obstacle to establishing national access to victim compensation is governments' failure to notify the Victim Compensation Scheme under Section 357A.
- Different states offer varying amounts of compensation for different crimes.
- Compensation grounds lack precision, leaving room for interpretation.
- Disbursement timelines are unclear, including interim compensation and the necessity for victims to cover ongoing expenditures.
- When it comes to states that have announced Victim Compensation Schemes, there is either a lack of understanding of the schemes' purpose or a failure of the state apparatus to provide compensation as a result of bad financial allocation.

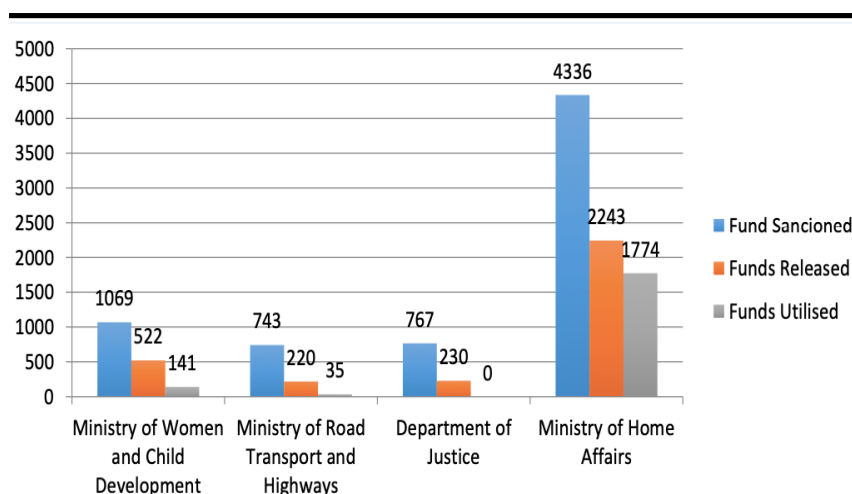
B. NIRBHAYA FUND.

The Nirbhaya gang rape case, which occurred in Delhi in December 2012, shook

the conscience of the nation and led to widespread outrage and demands for justice. While the legal proceedings primarily focused on the prosecution and sentencing of the perpetrators, the case also highlighted the critical issue of victim compensation. The survivor, who tragically succumbed to her injuries, and her family faced immense physical, emotional, and financial challenges. The case underscored the urgent need for comprehensive victim compensation policies to support survivors of sexual violence, including access to medical care, rehabilitation services, and financial assistance to rebuild their lives. The Indian government later established the Nirbhaya Fund to provide support and compensation to victims of sexual violence, acknowledging the need for holistic measures to address the plight of survivors and their families. Following the Nirbhaya event in 2012, the Union government established the Nirbhaya Fund in 2013 with an initial budget of Rs 1000 crore. It is a non-lapsable corpus fund under the Ministry of Finance's supervision. The fund was established to promote projects that preserve the dignity and safety of women in India. Some of issues in Nirbhaya fund is.

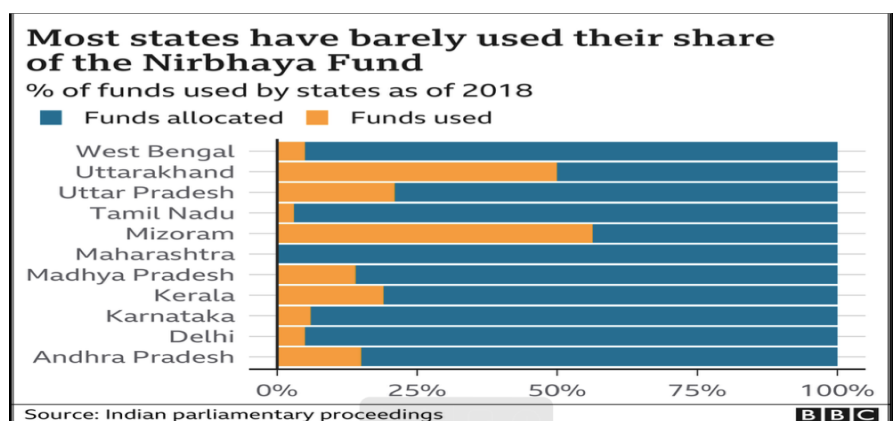
- Long-Term Underutilization

Money has been underutilized in all ministries and agencies implementing Nirbhaya Fund programs.



*Numbers mentioned above is in crores.⁶

⁶ <https://www.bbc.com/news/world-asia-india-54434160#:~:text=Most%20of%20the%20Nirbhaya%20Fund,don't%20exclusively%20benefit%20women.>



- Reduced allocations.

While money usage for Nirbhaya funds programs has increased in recent years, annual budgeted allocations for numerous initiatives have decreased.

C. Central Victims Compensation Fund.

To address criticism of the Nirbhaya Fund's non-use, the Government of India established the Central Victim Compensation Fund (CVCF) in 2015. The CVCF was also formed to standardize compensation amounts among states for various sorts of offenses. In 2015, the Indian government published CVCF rules and committed Rs 200 crore from the Nirbhaya Fund to the program. The CVCF tried to align state programs by offering victims of various crimes a minimum fixed sum of compensation. Each state was asked to inform new schemes as part of its compliance. The problem with CVCF is that many states have not notified new programs for compliance.

D. Compensation Scheme for Women Victims and Survivors of Sexual Assaults and Other Crimes.

Due to the imbalance in the amount of compensation paid to victims under the separate compensation schemes, the Supreme Court of India asked the National Legal Service Authority to develop a program to remedy this issue.²¹ The plan authorizes the legal services authority to take Suo moto cognizance of sexual assault and acid attack cases in order to give survivors with temporary relief. Minors who

⁷ Ibid.

have been the victims of rape or sexual assault will get compensation in the same manner as women have. The monetary help offered under the system is not dependent on the outcome of the trial, and the survivor may request compensation from the state or district legal services organization as soon as the FIR is filed. NALSA's model plan provided for higher compensation for victims of sexual offenses, but non-female victims of other major crimes were not eligible for enhanced compensation.

4. JUDICIAL PRECEDINGS

1. Rudal Shah Vs State Of Bihar (1983) 4 SCC 141⁸

Rudul Shah's case is a watershed event in the history of state liability and compensation laws. This case is important to note because it established the legality of compensation jurisprudence for infringement of the Constitution's basic rights. This ruling also reversed the decision in *Kasturilal v. State of Uttar Pradesh* (1964). In this decision, the Court found that the state was exempt from culpability for the tortious act committed by its police officers, which resulted in a serious loss of people's rights. However, the Supreme Court determined that the state's tortious behavior was within the scope of its sovereign authority and gave the state immunity. P.B. Gajendragadkar, C.J., believed the regulation was essential and chastised the government for failing to implement it.

Many people have challenged the *Kasturilal* case. The Indian Constitution does not specifically authorize the payment of compensation, and the decision is based on the Court's evaluation of the breadth of the right to remedy in Rudul's case. The Rudal Shah case is the most well-known case in which the Hon'ble Supreme Court ordered the state to pay Rs 35,000 in compensation to Rudal Sah, who was imprisoned for 14 years after being acquitted on the grounds of insanity, and ruled that the State of Bihar had violated Article 21. This case represents a person's sadness. Rudal Shah's sorrow was not his fault, but rather the institution in which locals put their confidence. It was simply an instance of a person suffering as a result of the government's incompetence. In other cases, the violation of Article 32 was eventually broadened dramatically. As society's economic and social successes required compensation as a constitutional remedy, Article 21 becomes one of the most important laws. In *MC Mehta v.*

⁸ <https://www.legalserviceindia.com/legal/article-6103-a-critical-study-on-victim-compensation-under-various-laws-of-india.html>

UOI Supreme Court reiterated its decision in the Rudul Sah case and said that it cannot only issue guidelines under Article 32 but also formulate new remedies and use new strategies to implement policies. The Court went on to explain that Article 32's power extended not only to preventative measures, but also to compensation rights in the case of a breach. The court went on to declare that taking the other view and not imposing any compensation orders on the state would render Article 32 obsolete and ineffectual.

In a democracy, the state serves a variety of tasks, including restraining individuals from misusing their authority and property. Even fundamental rights are sometimes infringed. In this case, a reasonable process for determining the state's responsibilities and paying the victim is necessary. It should be emphasized, however, that the state has not attempted to implement laws to address people's claims against it. The Indian judiciary has tackled a challenging subject by adopting specific guidelines for dealing with the aforementioned situation in its own unique approach.

There was also discussion regarding implementing a system of checks and balances to prevent such incidents from occurring again. This was meant for the state of Bihar, which was in turmoil owing to the insecurity of its jail system at the time. However, all states would benefit from adopting and building on the Court's approach to prevent such tragedies from happening again.

2. Ankush Shivaji Gaikwad v. State of Maharashtra AIR 2013 SC 2454, [2013] 6 SCC 770

The appellant, Ankush Shivaji Gaikwad, was convicted by the trial court of assaulting and killing a young girl under Sections 376 (rape) and 302 (murder) of the Indian Penal Code. The High Court of Bombay maintained the conviction and imposed the death punishment on the appellant. However, in a decision dated January 19, 2016, the Supreme Court of India mitigated the death punishment to life imprisonment, citing the appellant's young age, lack of criminal history, and potential for change.

One of the case's most critical components is victim compensation. Section 357A of the Code of Criminal Procedure (CrPC) of 1973 authorizes the court to grant compensation to victims of specific offenses. While the appellant was found guilty of rape and murder, the court did not address the subject of compensation to the victim's family. However, the court's decision to commute the death penalty to life imprisonment may have taken into account variables such as the appellant's age and the prospect of rehabilitation, which might influence the victim's

family's perception of justice and compensation. However, the case emphasizes the importance of clearer criteria and methods for victim compensation in such circumstances to guarantee that victims and their families receive adequate assistance and compensation for the harm suffered.

3. Vishakha v. State of Rajasthan⁹

In *Vishaka v. State of Rajasthan*, the Supreme Court of India addressed the subject of sexual harassment in the workplace and established standards for preventing and resolving such harassment. While the case was primarily concerned with creating preventative measures and legal defenses against workplace harassment, it also indirectly addressed the question of victim compensation by highlighting victims' rights and mechanisms for their protection and redress.

The court's recommendations highlighted the employer's responsibility to ensure a secure working environment free of sexual harassment and established processes for handling complaints, inquiries, and disciplinary action against violators. While compensation was not the primary goal of the lawsuit, the rules implicitly sought to guarantee that victims of sexual harassment received adequate remedies, including financial compensation, for the harm they suffered. The *Vishaka* case paved the way for broader discussions on victim compensation and the need for comprehensive legal frameworks to assist victims of workplace harassment in India by recognizing victims' rights and holding employers accountable for preventing and addressing sexual harassment.

4. Nipun Saxena vs UOI

In the case of *Nipun Saxena v. Union of India*, the subject of victim compensation in sexual assaults was addressed. The petitioner asked the court to guarantee that victims of sexual offenses receive timely and substantial compensation through the Nirbhaya Fund, which was formed to help victims of gender-based violence. The case highlighted the significance of providing financial assistance and support to victims in order to help them reconstruct their lives and recover from the pain of such miserable actions. The case underlined the importance of the government fulfilling its obligation to victims of sexual assaults by giving practical help

⁹ <https://blog.ipleaders.in/case-analysis-vishaka-ors-v-state-of-rajasthan-ors-1997-6-scc-241-landmark-case-on-sexual-harassment/>

and support to aid in their rehabilitation and recovery, as well as guaranteeing prompt justice through judicial processes.

While the case did not establish any new legal precedents, it did draw attention to the execution and efficacy of victim compensation programs in India. The court's review of the petitioner's request reflected a larger acknowledgment of the state's obligation to give comprehensive support to victims of sexual abuse, rather than simply punishing criminals. By addressing the topic of victim compensation, the case helped to advance existing conversations in India about improving the response to sexual assaults and guaranteeing justice and support for survivors.

5. Laxmi v. Union of India¹⁰

The case of *Laxmi v. Union of India* was a watershed moment in Indian legal history, addressing the subject of acid assaults and victim compensation. Laxmi, an acid attack survivor and activist, has launched a Public Interest Litigation (PIL) to regulate the sale of acid and compensate victims. The case highlighted the horrible crime of acid attacks, as well as the predicament of survivors, who frequently experience serious physical, mental, and social effects. In an order issued on April 10, 2015, the Supreme Court of India addressed a variety of issues concerning acid attacks, including victim compensation. While the decision largely focused on laws to prevent acid attacks and offer medical care and rehabilitation to survivors, it also underlined the importance of compensation to address the financial difficulties and loss of livelihood suffered by victims.

One of the most important components of the decision was the development of guidelines regarding the compensation and rehabilitation of acid attack survivors. Section 5 of the verdict described the compensation program, mandating state governments to pay a minimum of Rs. 3 lakhs to acid attack survivors within 15 days of the incidence. Section 6 also addressed the subject of medical treatment, requiring hospitals to give free medical care, including reconstructive surgery, to acid attack survivors.

One of the most important aspects of the ruling was the establishment of criteria for compensating and rehabilitating acid attack survivors. Section 5 of the ruling outlined the

¹⁰ <https://www.legalserviceindia.com/legal/article-5332-laxmi-vs-union-of-india-a-case-analysis-and-application-of-jurisprudence.html>

compensation scheme, which required state governments to pay at least Rs. 3 lakh to acid attack survivors within 15 days of the incident. Section 6 also addressed medical treatment, requiring hospitals to provide free medical care, including reconstructive surgery, to acid attack victims.

6. National legal service authority vs Union of India

In the case of National Legal Services Authority (NALSA) v. Union of India, while the primary focus was on recognizing and upholding the rights of transgender individuals, the judgment indirectly addressed the issue of victim compensation in cases of discrimination and violence based on gender identity. In its landmark judgment delivered on April 15, 2014, the Supreme Court recognized the rights of transgender persons as part of the fundamental rights guaranteed by the Constitution, including the rights to equality, non-discrimination, and freedom of expression and self-identity. The court directed the government to take various measures to protect and promote the rights of transgender individuals, including:

- Recognizing transgender persons as a third gender for the purpose of legal recognition and access to rights and entitlements.
- Providing affirmative action measures such as reservations in education and employment.
- Ensuring access to healthcare, including hormone therapy and sex reassignment surgery, as part of the right to health.
- Facilitating legal recognition of gender identity through gender-affirming identity documents.

This recognition laid the foundation for addressing the issue of victim compensation for transgender individuals who have been subjected to such violence and discrimination.

While the NALSA decision did not directly address the issue of victim compensation, its acknowledgment of transgender people's rights and vulnerability has far-reaching consequences for victim compensation policy in India. The decision emphasized the need of comprehensive support measures for victims of gender-based violence and discrimination, including as access to legal assistance, healthcare, and rehabilitation programs. It emphasized the state's responsibility to offer justice and assistance for all people, regardless of gender

identity or sexual orientation, and might influence future changes in victim compensation laws and policies in India.¹¹

7. Mohd. Haroon v. Union of India (Compensation for Custodial Violence)¹²

The petitioner, Mohd. Haroon, filed a Public Interest Litigation (PIL) before the Supreme Court of India, demanding compensation for victims of custody torture and death. The lawsuit arose from several reports of custodial brutality and fatalities around the country, which highlighted systemic flaws among law enforcement organizations. The main legal issue in the case was whether victims of custodial abuse and their families were entitled to compensation for infringement of their rights. The petition criticized law enforcement authorities' inability to prevent and investigate incidents of custodial assault, and it called for responsibility through compensation and other remedies. In its judgment, the Supreme Court recognized the state's responsibility to protect individuals in its custody and provide remedies for violations of their rights. The court laid down guidelines for compensation to be paid to victims of custodial violence, emphasizing the need for prompt and adequate compensation to address the physical, psychological, and financial harm suffered by victims and their families.

The court's judgment highlighted the importance of accountability and deterrence in preventing custodial violence. It underscored the state's duty to ensure the safety and well-being of individuals in its custody and to provide redressal mechanisms for violations of their rights. By establishing guidelines for compensation, the court sought to address the impunity often associated with custodial violence and to provide victims and their families with a measure of justice and restitution.

The Mohd. Haroon case has had a significant impact on the legal landscape surrounding custodial violence in India. It has emphasized the need for accountability and compensation for victims of police brutality and custodial abuse. The judgment has also led to increased awareness and scrutiny of law enforcement practices and has contributed to efforts to reform policing and improve human rights protections in India.

¹¹ <https://testbook.com/ias-preparation/nalsa-case#:~:text=The%20Supreme%20Court%20passed%20a,by%20the%20Constitution%20of%20India.>

¹² <https://cjp.org.in/mohd-haroon-and-others-v-union-of-india-and-another/>

CONCLUSION

In conclusion, the construction of a thorough legislative framework for compensating victims is critical for the pursuit of justice in every community. Throughout our study, we looked at several aspects of this critical issue, investigating its multidimensional influence on both people and the larger society fabric. From the moral duty to acknowledge and remedy victims' suffering to the practical considerations of restoring their well-being, the importance of compensation in the legal system cannot be emphasized. We've examined at how paying victims is more than just financial restitution; it's also about recognizing their rights and dignity. By offering restitution, whether in the form of money, services, or other types of help, the legal system reinforces victims' status as important members of society who deserve support and recognition. Furthermore, we investigated how compensation might be a valuable tool for restoring balance and supporting recovery, allowing victims to reconstruct their lives following trauma. This is especially important in situations of illegal activities or carelessness, since victims may suffer severe physical, emotional, and financial consequences.

This research paper has highlighted the larger socioeconomic implications of paying victims within a legal framework. Compensation, by encouraging responsibility and deterrent, not only solves individual complaints but also helps to keep law and order in place. When criminals are held accountable for their acts and victims receive equitable restitution, it creates faith in the judicial system, which is critical for social cohesion and peace. Furthermore, we examined the role of compensation in resolving structural inequalities and fostering fairness in society, emphasizing its ability to right historical wrongs and pave the way for a more just and inclusive future.

An effective legal structure for compensating victims is critical for maintaining the concepts of justice, dignity, and responsibility in any community. By prioritizing victims' needs and offering channels for redress, we not only alleviate their immediate suffering, but also promote a more equal and compassionate society for future generations. Policymakers, legal practitioners, and communities must all acknowledge the necessity of compensating victims and endeavor to ensure that justice is not only served, but also felt by those most impacted.